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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,228	07/11/2003	Balgovind K. Sharma	SC12589TP	4406

7590

08/08/2005

John A. Fortkort P.C.
4512 Court of St. James
Austin, TX 78730

EXAMINER

TRAN, BINH X

ART UNIT	PAPER NUMBER
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1765

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/618,228	Applicant(s) SHARMA, BALGOVIND K.	
	Examiner Binh X. Tran	Art Unit 1765	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: 22-28.
 Claim(s) objected to: 20.
 Claim(s) rejected: 1-19, 21, 29.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☒ Other: Attachment PTO 892: Prior arts made of record.

NADINE G. NORTON
SUPERVISORY PA

[Signature]

HC

Continuation of 3. NOTE: The new limitations in claim 18 raise new issues that would require further consideration and/or search. Note: The examiner clearly recognizes that the new limitation in claim 18 come from a portion of the limitation of previous claim 20. The examiner also acknowledges that claim 20 is objected as to being dependent upon the rejected claim in previous office action. However, the examiner clearly indicates that claim 20 would be allowable if rewritten in independent form including ALL of the limitations of the base claim and any intervening claims. The examiner never indicates that claim 20 would be allowable if rewritten in independent claim including ONLY A PORTION of the base claim and any intervening claims. The new limitation in claim 18 (by incorporated only a portion of limitation in claim 20) certainly changes the scope of claim 18. The scope of claim 19 and 21 would change because they directly depend on claim 18.

Continuation of 11. does NOT place the application in condition for allowance because: The applicants argues that the examiner improperly rely on an inherency argument in postulating that the surfactants solution of Sahbari are micellar solution. According to applicants, "while all micellar solutions are surfactants, not all surfactant solutions are micellar solutions". The examiner recognizes that not all surfactant solutions are micellar solutions. Micellar only form when the concentration of surfactant is greater than the critical micelle concentration (CMC) (See prior art made of record <http://www.answers.com/topic/micelle>). In paragraphs 0022, applicants discloses that it is possible to form a micellar solution having the surfactant concentration less than 5%, preferable in the ranges of 0.01% to 1%. These concentration ranges certainly exceed the CMC. Sahbari discloses the surfactant concentration of 0.2 to 5%, preferably from 0.5 to 3 % wt. Based on this information, Sahbari surfactant concentration certainly exceeds the CMC. Since the surfactant concentration exceeds the CMC, it is inherently that the micellar solution would form.

Respect to claim 5, the applicants argues that HSQ is a class of polymer having various structure and composition. According to applicants, HSQ could refer to a material having a dielectric constant 3.9 to 4.5. The examiner recognizes that HSQ is a class of polymer materials. However, Sahbari clearly teaches to use "low-k" material such as HSQ (paragraph 0010). By definition, a low-k dielectric must have a dielectric constant k less than 3.9 (See www.semiconductorglossary.com). Since, Sahbari teaches to use low-k HSQ (i.e. dielectric constant less than 3.9), the applicants argument of using HSQ with dielectric constant from 3.9 to 4.5 does not apply.

Binh X. Tran